IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3471 OF 2006

Lalaji Sitaram Sawant Applicant
versus
State of Maharashtra Respondent

V.N.Tayade for applicant.
Smt.M.H.Mhatre, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 25th September 2006

PC :

1. The applicant is in judicial custody in connection with CR No.I-441 of 2005 registered at Mahatma Phule Police Station, Kalyan. The offences alleged are of cheating and forgery, distruction of evidence and also under section 13(1)(d) of the Prevention of Corruption Act.

2. It appears that the applicant was at the relevant time working as a Divisionl Manager with a Public Sector Insurance Company. He alleges that he had reported a case of misappropriation and irregularities and during the investigation of the same, the said CR came to be registered

where he is also arrayed as an accused.

3. It appears from the record that the applicant is in Magisterial Custody after his discharge from J.J.Hospital on 8th September 2006.

4. Shri Tayade submits that considering the observations made by learned Judge in the order on his bail application, the Applicant could not have been denied bail. Once the learned Judge was satisfied that the pre-requisite in law with regard to a voluntary surrender and availability for interrogation having been satisfied, the applicant cannot be remanded to police custody, then continuing him in magisterial custody, would not serve any purpose. That would amount to punishment even before the trial is concluded. He further submits that considering the fact that the applicant has voluntarily surrendered, he would co-operate in the investigations and would not conduct himself in such a way so as to avoid his attendance at the trial and availability for interrogation.

5. Learned APP does not dispute that the Sessions Judge has observed at para 8 of his order that the applicant was taken in custody and

the period of 15 days has lapsed. In such situation, further custody/police remand cannot be granted. She also does not dispute that other accused in this case are enlarged on bail. Her only submission is that the applicant was not traceable till his surrender to the Court on 19th July 2006. A proclamation was also issued and thus he has been avoiding the proces of law.

6. After hearing both sides and considering the fact that the applicant has remained in custody from 8th September 2006 and further he being ready to abide by all such conditions as are imposed by this Court, it would be appropriate to enlarge him on bail. Hence, following order.

7. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.I-441 of 2005 registered with Mahatama Phule Police Station, Kalyan, District Thane subject to furnishing a personal bond of Rs.50,000/- (Rs.Fifty thousand only) with one or two sureties in the like sum;

(ii) The applicant shall report to Mahatama Phule Police Station, Kalyan, District Thane twice in a week for a period of three months and thereafter as per further directions of the Trial Court;

(iii) The applicant shall deposit his passport forthwith with the Investigating Authority;

(iv) The applicant shall furnish his residential address to the Investigating Authority where he proposes to reside after bail and during pendency

of trial, and he shall not change his residence during this period without prior intimation to the Investigating Authority;

(v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence;

(vi) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail;

(vii) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial;

(viii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)